

**PATENT APPLICATION**  
**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of

Docket No: Q61623

Hubert HELAINE, et al.

Appln. No.: 09/716,273

Group Art Unit: 2617

Confirmation No.: 8432

Examiner: Khawar IQBAL

Filed: November 21, 2000

For: HOME AND ROAMING PROVISIONING METHOD FOR MOBILE TERMINALS

**APPEAL BRIEF UNDER 37 C.F.R. § 41.37**

**MAIL STOP APPEAL BRIEF - PATENTS**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 37 C.F.R. § 41.37, Appellant submits the following:

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APPEAL BRIEF UNDER 37 C.F.R. § 41.37  
U.S. Appl. No. 09/716,273  
Attorney Docket No.: Q61623

**I. REAL PARTY IN INTEREST**

The real party in interest is ALCATEL, by virtue of an assignment recorded by the Assignment Branch of the U.S. Patent and Trademark Office on April 3, 2001, at Reel 011652, Frame 0108. It is further noted that by virtue of a name change of the assignee and a corporate restructuring, the current name of the real party in interest is ALCATEL-LUCENT CORPORATION.

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## **II. RELATED APPEALS AND INTERFERENCES**

To the knowledge and belief of Appellant, the Assignee, and the undersigned, there are no other appeals or interferences before the Board of Appeals and Interferences that will directly affect or be affected by the Board's decision in the instant Appeal.

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### **III. STATUS OF CLAIMS**

Claims 1-31 are all the claims pending in the application and stand rejected under 35 U.S.C. § 102 as being allegedly anticipated by U.S. Patent No. 6,671,522 to Beaudou (hereinafter “Beaudou”). The rejected claims 1-31 are being appealed.

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#### **IV. STATUS OF AMENDMENTS**

With the filing of this Brief, all Amendments have been entered and considered by the Examiner.

The Appendix included with this Brief sets forth the claims involved in the appeal and reflects all of the claim amendments that have been entered by the Examiner.

**V. SUMMARY OF THE CLAIMED SUBJECT MATTER**

Setting up connections across a packet-switched data network such as the Internet involves allocating an address to the data network. For most uses, address allocation is dynamic and effected by a service provider to which the user subscribes. The expression “primary provision” or “primary data provision” refers to the operation of supplying a user with data for establishing a first connection to a service provider. Mobile terminals are now appearing which have an Internet connection terminal function in addition to a telephone network terminal function. For terminals of this kind the telephone network provides an access network to access the data network. The primary provisioning is performed with provisioning data being stored in a physical location or in a logical file of the terminal (*see* page 2, lines 8 to 30 of the specification).

Furthermore, a mobile terminal or a user terminal is usually associated with a given public land mobile network (PLMN) or a home access network, which is the access network to which they subscribe. The facility to connect to other public networks can also be provided. The term “roaming” refers to a change of network on moving from one access network to another. A new problem encountered with the mobile terminals which can connect to a data network is provisioning in the case of a change of the access network. If the access network is changed, it is necessary to update the provisioning data in the terminal in order to be able to continue to access the services of the data network. On returning to the home access network, further provisioning is then required to reload the provisioning data for the home access network. Similarly, there is a problem of plastic roaming, which is roaming between users *i.e.* if the same

terminal is used by more than one user, for example with different subscriber identification module (SIM) cards. In conventional techniques, each time a user or access network is changed, the initial provisioning data is lost. Accordingly, when returning to the home access network or to a particular user (*e.g.*, owner of the terminal), the terminal needs to be provisioned again and new provisioning data needs to be obtained (*see* page 2, line 31 to page 3, line 12 of the specification).

In an exemplary, non-limiting embodiment, however, a terminal device may change or roam between users or access networks without losing the provisioning data. In an exemplary, non-limiting embodiment, a terminal may return to the home access network or the particular user without carrying out any further provisioning. That is, a terminal is provided with protected provisioning data that is stored in a storage area of the terminal and is not updated automatically (*see* page 4, lines 2 to 9 of the specification).

In an exemplary embodiment, the mobile terminal automatically selects an appropriate set of provisioning data. As depicted in the figure, the protected provisioning data storage means are provided: in a medium dedicated to an access provider (*e.g.*, a WIM card), in a medium dedicated to a type of access network and to a user (*e.g.*, a SIM card), and in a mobile terminal itself. In each case, identification data is stored for each set of protected provisioning data. The provisioning data used is managed by the mobile terminal in accordance with data stored in the WIM card or in the SIM card or in the terminal (*see* page 5, line 21 to page 6, line 9 of the specification).

For example, when the terminal is turned on, when a SIM card is inserted, or when a WIM card is inserted, the terminal identifies a user and a usable telephone network, in operation

2. In operation 4, the terminal determines if a WIM card is present. When the WIM card is present, the terminal determines if the WIM card contains protected provisioning data for the user of the WIM card and the current access network. If so, the provisioning data obtained is selected to enable access to the data network, in operation 8 and the process terminates.

Alternatively, if there is no protected provisioning data on the WIM card, the terminal determines if the WIM card contains files providing for a change of access network (roaming files) in operation 10. If so, the terminal verifies if those files contain provisioning data or if necessary requests provisioning data from the network. The provisioning data can then be stored in the WIM card roaming file and used as indicated in operation 12, and the process terminates (*see* Fig. and page 6, lines 10 to 34 of the specification).

In operation 14, it is known that there is no WIM card in the terminal. It is then determined if there is a SIM card in the terminal. If there is a SIM card, similar operations to the ones described above with respect to WIM card are performed. In other words, the SIM card is first checked for data and then for the roaming files in operations 16, 18, 20, and 22 (*see* Fig. and page 6, line 35 to page 7, line 22 of the specification). In operation 24, it is known that there is no provisioning data stored in the WIM card or in the SIM card or available from the roaming files. Accordingly, the data in the terminal itself is searched. Specifically, it is determined whether the terminal itself contains protected provisioning data and whether the terminal itself contains the roaming files in operations 24, 26, 28, and 30 (similar to the operations described



above with respect to WIM card). In operation 32, it is known that there is no provisioning data either stored or available by means of the roaming files. The process terminates, and provisioning is required, as shown in operation 32 (*see* Fig. and page 7, line 22 to page 8, line 8 of the specification).

**A. *Independent Claim 1***

Independent claim 1 is directed to a telecommunication terminal for accessing a data network via an access network using a set of provisioning data. The terminal comprising: means for storing a current set of primary provisioning data; means for storing at least one set of protected primary provisioning data that cannot be updated without the intervention of the terminal user; and means for selecting a set of provisioning data from a group of the current set of primary provisioning data and the set of protected primary provisioning data, wherein a connection to the data network is set up using the selected set of provisioning data (*see* Fig. and page 5, line 29 to page 8, line 4 and page 8, lines 26 to 28 of the specification).

**B. *Independent Claim 8***

Independent claim 8 is directed to a telecommunication terminal for accessing a data network via an access network using a set of provisioning data. The terminal comprising: means for storing a current set of provisioning data; means for storing at least one set of protected provisioning data that cannot be updated without the intervention of an access network operator, and means for selecting a set of provisioning data from a group of the current set of primary provisioning data and the set of protected primary provisioning data, wherein a connection to the

data network is established using the selected set of provisioning data (*see* Fig. and page 5, line 29 to page 8, line 4 and page 8, lines 27 to 30 of the specification).

**C.     *Independent Claim 15***

Independent claim 15 is directed to a telecommunication terminal for accessing a data network via an access network using a set of provisioning data. The terminal comprising: means for storing a current set of provisioning data to access the data network; means for storing at least one set of protected provisioning data that cannot be updated without the intervention of an access provider; and means for selecting a set of provisioning data from a group of the current set of primary provisioning data and the set of protected primary provisioning data, wherein a connection to the data network is established using the selected set of provisioning data (*see* Fig. and page 5, line 29 to page 8, line 4 and page 8, lines 27 to 30 of the specification).

**D.     *Independent Claim 22***

Independent claim 22 is directed to a method of updating provisioning data in a telecommunications terminal for accessing a data network via an access network and an access provider. The method comprising: backing up provisioning data for an access network, an access provider or a user; and protecting the backed up provisioning data to prevent it being updated without the intervention of the user, an access network operator or the access provider (*see* Fig. and page 3, lines 18 to 30, page 5, lines 21 to 28, page 6, line 10 to page 8, line 4 and page 8, lines 26 to 30 of the specification).

***E. Independent Claim 23***

Independent claim 23 is directed to a method of accessing a data network by a telecommunications terminal. The method comprising: identifying a user and a network using the terminal; when the user and the network are identified, checking a storage of the terminal for a protected provisioning data that cannot be modified without user intervention; when said provisioning data is detected, using said provisioning data to connect the terminal to the data network; and when said provisioning data is not detected, requesting current provisioning data (*see* Fig and page 6, line 10 to page 8, line 4 of the specification). In this method the storage is in one of: the terminal; a medium dedicated to an access provider; and a medium dedicated to an access network (*see* Fig. and page 5, line 34 to page 6, line 6 of the specification). Furthermore, in this method, before storing in said storage said protected provisioning data, the user is queried whether said protected provisioning data is to be stored (*see* page 6, lines 32 to 34 of the specification).

***F. Independent Claim 27***

Independent claim 27 is directed to a telecommunication terminal for accessing a data network via an access network using a set of provisioning data. The terminal comprising: means for storing a current set of primary provisioning data; means for storing at least one set of protected primary provisioning data that cannot be updated without intervention from a terminal user; and means for copying one of said at least one set of protected primary provisioning data from the protected storing means into the current storing means (*see* Fig. and page 4, lines 1 to 33, page 5, line 29 to page 8, line 4 of the specification).

**G.     *Dependent Claim 28***

Dependent claim 28 is directed to a terminal of claim 27. When the terminal returns to a home access network, said one of said at least one set of protected primary provisioning data is copied from the protected storing means into the current storing means (*see* Fig. and page 4, lines 20 to 29 of the specification).

**H.     *Dependent Claim 29***

Dependent claim 29 is directed to a terminal of claim 1. In this terminal, the current set of primary provisioning data is updated automatically without intervention of the terminal user (*see* Fig. and page 3, lines 3 to 30 and page 4, lines 20 to 29 of the specification).

**I.     *Dependent Claim 30***

Dependent claim 30 is directed to a method of claim 23. In this method, when the current provisioning data is requested, a service provider supplies the terminal with the current provisioning data and the terminal establishes a connection with the data network using the current provisioning data (*see* Fig. and page 4, lines 20 to 29 of the specification).

**J.     *Dependent Claim 31***

Dependent claim 31 is directed to a method of claim 30. In this method, prior to the requesting of the current provisioning data, the terminal checks whether the protected provisioning data is for establishing the connection with the data network, and wherein the current provisioning data is automatically updated by the terminal without the user intervention (*see* Fig. and page 3, lines 3 to 30, page 4, lines 20 to 29, and page 6, line 10 to page 8, line 4 of the specification).

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**VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

There is only one issue on Appeal. The only issue is whether claims 1-31 are improperly finally rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent No. 6,671,522 to Beaudou (hereinafter “Beaudou”). There are no other issues on appeal.

## **VII. ARGUMENT**

Appellant respectfully requests the Board to reverse the final rejection of the claims pending in the application for at least the following reasons.

Claims 1-31 are rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent No. 6,671,522 to Beaudou (hereinafter “Beaudou”). Appellant respectfully submits that these grounds of rejection are legally and technically inaccurate in view of at least the following remarks.

### ***A. Legal Standard***

To be an “anticipation” rejection under 35 U.S.C. § 102, the reference must teach every element and recitation of the Appellant’s claims. Rejections under 35 U.S.C. § 102 are proper only when the claimed subject matter is identically disclosed or described in the prior art. Thus, the reference must clearly and unequivocally disclose every element and recitation of the claimed invention. MPEP § 2131.

### ***B. Independent Claim 1***

Independent claim 1, among a number of unique features, requires: “...means for storing at least one set of protected primary provisioning data that cannot be updated without the intervention of the terminal user...means for selecting a set of provisioning data from a group of the current set of primary provisioning data and the set of protected primary provisioning data, wherein a connection to the data network is set up using the selected set of provisioning data.”

An illustrative, non-limiting embodiment of the present invention, discloses a method and a telecommunications terminal operable to connect the terminal to a data network. The exemplary telecommunication terminal can change between access networks and/or users without losing the provisioning data for the data network by storing a protected primary provisioning data or a number of sets of protected primary provisioning data that cannot be modified without intervention from the user. The provisioning data is stored in the terminal or a card that is read by the terminal. Accordingly, after the terminal identifies a user and a useable network, the terminal tries to find stored provisioning data to enable access to the data network. Thereby, in this exemplary telecommunication terminal, there is no need to update the provisioning data to access the services of a data network each time the user roams between access networks and/or users. On the contrary, the user may select between a current set of primary provisioning data and the protected stored primary provisioning data.

***C. General Description of the Prior Art***

Beaudou is related to a process for running applications on a mobile terminal. In particular, Beaudou discloses a terminal 3 reading a predetermined list of parameter sets in a memory area 51 of the subscriber identification module (SIM) 4. Each parameter set defines a services server telephone number, a transmission mode and possibly other call parameters. In Beaudou, the subscriber identification module 4 sends a specific command to the terminal 3 (directly or as a parameter of a generic command), asking the terminal 3 to start the browser. A first set of parameters is sent with this specific command. When the terminal 3 receives this specific command, the terminal attempts to setup communication with the access platform using

the information in the first set of parameters. For example, the objective may be to setup communication with the first platform UP1 in a digital mode. If communication is actually setup, the terminal 3 starts the browser so that it can browse within the Internet type computer network. The services server (UP1 in the example mentioned above) authenticates the SIM 4 (Fig 2; col. 9, line 51 to col. 10, line 5).

In Beaudou, the memory area 51 stores components of the parameter sets used to build up the specific browser start command (or more generally a services application). These components elements could comprise a list of services server numbers, the list of call parameters such as transmission modes corresponding to different services server numbers. Optionally, the memory area 51 of the subscriber identification module 4 (and not the terminal 3) also stores information that will be useful to the browser 31 after it has been started. For example, it may include: IP type numbers and a secret browser authentication and/or data encryption key on the Internet type computer network (Fig. 3; col. 10, lines 6 to 42).

***D. Examiner's Position***

The Examiner contends that Beaudou's disclosure (in col. 9, lines 50 to 57 and lines 63 to 67) of selecting between various parameters stored in memory area 51 of the SIM card anticipates selecting one of the protected provisioning data and the current set of provisioning data (*see* pages 7 and 8 of the Office Action). The Examiner further contends that since the operator selects one of the three specific functions, the parameters cannot be updated without user intervention, as set forth in claim 1 (*see* page 2 of the Office Action).



***E. Appellant's Position***

Appellant respectfully submits that Beaudou fails to disclose having two sets of primary provisioning data, the protected one that cannot be updated without user intervention and the current one, and having means for selecting between the two types of data.

Col. 9, line 50 to col. 10, line 5 of Beaudou recite:

Step 1: for example in each (or some) of its initializations, the terminal 3 reads a ***predetermined list of parameter sets*** in a memory area 51 of the subscriber identification module 4, each parameter set defining a services server telephone number, a transmission mode and possibly other call parameters. An example of the structure of the memory area 51 is presented in detail later in relation to FIG. 3 (emphasis added).

Step 2: the subscriber identification module 4 sends a specific command to terminal 3 (directly or as a parameter of a generic command), asking terminal 3 to start the browser. ***A first set of parameters is sent with this specific command*** (emphasis added).

Step 3: when it receives this specific command, the terminal attempts to setup communication with the access platform ***using the information in the first set of parameters***. For example, the objective may be to setup communication with the first platform UP1 in digital mode (emphasis added).

Step 4: if communication is actually setup, the terminal 3 starts the browser so that it can browse within the Internet type computer network;

Step 5: the services server (UP1 in the example mentioned above) authenticates the subscriber identification module 4.

As visible from the above-quoted passage, Beaudou only discloses storing various sets of parameters. In Beaudou, there is no disclosure or suggestion of having a current set of

parameters and a protected set of parameters and selecting between the two. That is, in Beaudou, a number of parameters sets (each defining a services server) is stored in the memory area 51, and a specific command is send to the terminal 3 along with the first set of parameters. In other words, the operator makes a selection from one of the stored parameters. In Beaudou, however, there is no disclosure or suggestion of selecting between stored and current set of parameters. In Beaudou, one set of the stored parameters is selected and the selected stored set of parameters become the current set of parameters. In short, Beaudou does not disclose or suggest selecting from a group of stored and current sets of the parameters.

In addition, Beaudou fails to disclose or even remotely suggest means for storing at least one set of protected primary provisioning data that cannot be updated without the intervention of the terminal user. The Examiner does not rebut this argument with respect to claim 1, *see* pages 7-9 of the Office Action. In addition, the Examiner appears to rely on Beaudou's disclosure of selection of a particular command by a user to allegedly also disclose the protected data not being updated without the intervention of the terminal user (*see* page 2 of the Office Action).

With respect to the selection, however, Beaudou simply discloses a user selecting one of the three available functions (col. 9, lines 51 to 67). In Beaudou, there is no disclosure or even remote suggestion as to how the parameter sets or the application data are updated. In fact, there is no disclosure or suggestion that the parameter sets or application data cannot be updated without user intervention. In short, Beaudou is silent with respect to the update of the data. Since Beaudou is silent with respect to the updating of the data, the rejection is improper as it lacks "sufficient specificity" required under 102. "[A]nticipation under § 102 can be found only

when the reference discloses exactly what is claimed and that where there are differences between the reference disclosure and the claim, the rejection must be based on § 103 which takes differences into account.” *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985); MPEP § 2131.

In addition, Appellant respectfully submits that if the Examiner contends that the sets of parameters of Beaudou allegedly discloses the protected primary provisioning data, then Beaudou should disclose that these sets of parameters (and not the functions as alleged by the Examiner, *see* page 2 of the Office Action) cannot be updated without the intervention of the terminal user. As explained above, Beaudou does not disclose or suggest updates of the parameter sets.

For at least these exemplary reasons, independent claim 1 is patentably distinguishable from Beaudou, which lacks selecting from a group having protected and current set of parameters and having the protected set of parameters that cannot be modified without the user intervention.

***F. Concluding Remarks with respect to Claim 1***

In summary, the Beaudou reference fails to disclose or suggest the unique features of claim 1. Therefore, for all the above reasons, independent claim 1 is patentable. Appellant respectfully requests the Board to reverse this rejection of claim 1.

Claims 2-7, 25, 26, and 29 are patentable at least by virtue of their dependency on claim 1.

***G. Additional Arguments regarding Dependent Claim 29***

In addition, dependent claim 29 recites “wherein the current set of primary provisioning data is updated automatically without intervention of the terminal user.” The Examiner contends that Beaudou’s disclosure of sending a specific start command to the terminal anticipates these unique features of claim 29 (*see* page 7 of the Office Action). Appellant respectfully disagrees.

Appellant respectfully submits that this position is legally inaccurate. That is, claim 29 depends on claim 1. If the Examiner alleges that the set of parameters in Beaudou disclose the primary provisioning data (*see* page 2 of the Office Action), then Beaudou needs to disclose that some of the sets are not updated without user intervention, as set forth in claim 1 and that other sets of parameters are updated automatically, as set forth in the dependent claim 29. The Examiner, however, relies on a specific start command of Beaudou and not on the set of parameters for allegedly disclosing these unique features of claim 29. The Examiner cannot interpret same element to have different meanings so as to somehow meet the unique features of the claims. Accordingly, Examiner’s position is legally inaccurate.

Furthermore, Appellant respectfully submits that Examiner’s position is technically inaccurate. Beaudou fails to disclose having two sets of primary provisioning data, the protected one that cannot be updated without user intervention and the current one that is updated automatically.

An illustrative, non-limiting embodiment of the present invention, discloses a telecommunications terminal that can change between access networks and/or users without loosing the provisioning data for data network by storing a protected primary provisioning data

or a number of sets of protected primary provisioning data that cannot be modified without intervention from the user. The provisioning data is stored in the terminal or a card that is read by the terminal. The terminal tries to find stored provisioning data to enable access to the data network. Thereby, in this exemplary telecommunication terminal, there is no need to update the provisioning data to access the services of a data network each time the user roams between access networks and/or users. On the other hand, if there is no protected provisioning data, the mobile terminal will download the primary provisioning data from the access provider of the visiting network. That is, the current set of provisioning data is automatically updated without intervention of the user as opposed to the protected provisioning data that cannot be updated without user intervention.

In Beaudou, there is no disclosure or even remote suggest as to how the parameters stored in the SIM card are updated. In Beaudou, the alleged parameter set is provided to the terminal 3 based on the user request for a particular application (col. 6, lines 52 to 65). In other words, the specific command and the parameter set are provided only based on user request. However, there is no disclosure or suggestion of updating the specific command and the parameter set automatically. In short, Beaudou suggests a user choosing an application and based on the user selecting the application, a particular command (from the SIM Application Toolkit) along with a selected parameter set is provided to the terminal 3 from the SIM card 4. However, in Beaudou, there is no disclosure or suggest of how the specific commands (alleged protected primary provisioning data) are updated *i.e.*, Beaudou does not disclose or suggest the specific commands not being updated without the intervention of the terminal user. Similarly, in Beaudou, the

parameter data set (alleged current provisioning data) is clearly not automatically updated but rather may become current based on user selection of the function. In Beaudou, however, there is no disclosure or suggestion of a current parameter set. That is, Beaudou does not disclose or suggest the current set of primary provisioning data being updated automatically without intervention of the terminal user.

For at least these additional exemplary reasons, dependent claim 29 is patentably distinguishable from Beaudou, which lacks having the protected set of commands that cannot be modified without the user intervention and the current set of parameters that are automatically updated without intervention of the user.

#### ***H. Claims 8-21***

Independent claims 8 and 15 recite features similar to, although not necessarily coextensive with, the features argued above with respect to claim 1. Therefore, arguments presented with respect to claim 1 are respectfully submitted to apply with equal force here. For at least substantially analogous exemplary reasons, independent claims 8 and 15 are patentably distinguishable from Beaudou. Claims 9-14 and 16-21 are patentable at least by virtue of their dependency on claims 8 and 15, respectively.

#### ***I. Independent Claim 22***

Independent claim 22 relates to updating the provisioning data and among a number of unique features, recites: “backing up provisioning data for an access network, an access provider or a user.” In Beaudou, there is no disclosure of updating or a backup. Beaudou relates to allowing a mobile terminal to run an application and is unrelated to provisioning data updates

and data backups. For at least these exemplary reasons, independent claim 22 patentably distinguishes from Beaudou.

***J. Claim 23, 24, 30, and 31***

Independent claim 23 recites features similar to, although not necessarily coextensive with, the features argued above with respect to claim 1. Therefore, arguments presented with respect to claim 1 are respectfully submitted to apply with equal force here. For at least substantially analogous exemplary reasons, independent claim 23 is patentably distinguishable from Beaudou.

In addition, claim 23 further recites: “when said provisioning data is not detected, requesting current provisioning data.” Beaudou fails to disclose or suggest when the parameter set or application data is not detected, requesting the needed parameter set or application data. In other words, Beaudou does not disclose or suggest checking the stored sets of parameters to find the required one and when the required one is not found, requesting a parameter set elsewhere. Accordingly, for at least this additional exemplary reason, claim 23 is patentably distinguishable from Beaudou. Claims 24, 30, and 31 are patentable at least by virtue of their dependency on claim 23.

Furthermore, dependent claim 30 recites: “wherein, when the current provisioning data is requested, a service provider supplies the terminal with the current provisioning data and the terminal establishes a connection with the data network using the current provisioning data.” Beaudou does not disclose or even remotely suggests the service provider supplying the terminal with the set of parameters and commands (alleged current provisioning data). In Beaudou, the

set of parameters and the commands are supplied from a SIM card 4 and not the service provider.

For at least these additional exemplary reasons, claim 30 is patentably distinguishable from Beaudou.

Dependent claim 31 recites: “wherein, prior to said requesting of the current provisioning data, the terminal checks whether the protected provisioning data is for establishing the connection with the data network, and wherein the current provisioning data is automatically updated by the terminal without the user intervention.” In Beaudou, there is no disclosure or even remote suggestion of checking the existence of a particular set of parameters and commands in the data stored in memory area 51 prior to requesting the current parameters. For at least these additional exemplary reasons, claim 31 is patentably distinguishable from Beaudou.

***K. Claims 27 and 28***

Independent claim 27 recites features similar to, although not necessarily coextensive with, the features argued above with respect to claim 1. Therefore, arguments presented with respect to claim 1 are respectfully submitted to apply with equal force here. For at least substantially analogous exemplary reasons, independent claim 27 is patentably distinguishable from Beaudou. Claim 28 is patentable at least by virtue of its dependency on claim 27.

In addition, independent claim 27 further recites: “means for copying one of said at least one set of protected primary provisioning data from the protected storing means into the current storing means.” Beaudou fails to disclose or suggest copying the parameter set or application data to an area where another set or application data is stored. In Beaudou, the parameter set is transmitted from the SIM card to the terminal 3, which uses this received parameter set in order



to set up the communication. There is, no disclosure or suggestion that the received parameter set is stored in the terminal 3 and that the parameter set is selected from the storage in SIM card and another storage that stores the current parameter set. Similarly, there is no disclosure or suggestion of storing application data into the storage where the current application data is stored. In fact, in Beaudou, there is no disclosure or suggestion of protected and current data. Accordingly, for at least these additional exemplary reasons, claim 27 is patentably distinguishable from Beaudou.

In addition, dependent claim 28 recites: “when the terminal returns to a home access network, said one of said at least one set of protected primary provisioning data is copied from the protected storing means into the current storing means.” Appellant respectfully submits that in Beaudou, there is no disclosure or even remote suggestion of a home access network. Furthermore, there is no disclosure or suggestion of copying a parameter set or application data when the terminal returns to the home access network. For at least these additional exemplary reasons, dependent claim 28 is patentably distinguishable from Beaudou.

Therefore, Appellant respectfully requests the Board to reverse these grounds of rejection.

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### **VIII. CONCLUSION**

Unless a check is submitted herewith for the fee required under 37 C.F.R. §41.37(a) and 1.17(c), please charge said fee to Deposit Account No. 19-4880.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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WASHINGTON OFFICE

**23373**

CUSTOMER NUMBER

Date: September 10, 2007

**CLAIMS APPENDIX**

**CLAIMS 1-31 ON APPEAL:**

1. A telecommunication terminal for accessing a data network via an access network using a set of provisioning data, the terminal comprising:
  - means for storing a current set of primary provisioning data;
  - means for storing at least one set of protected primary provisioning data that cannot be updated without the intervention of the terminal user; and
  - means for selecting a set of provisioning data from a group of the current set of primary provisioning data and the set of protected primary provisioning data,wherein a connection to the data network is set up using the selected set of provisioning data.
2. The terminal claimed in claim 1, wherein the terminal is a mobile terminal.
3. The terminal claimed in claim 1, wherein said data network is a packet-switched data network.
4. The terminal claimed in claim 1, wherein the protected provisioning data storage means are adapted to store a plurality of sets of primary provisioning data for a plurality of accesses to the data network.

5. A terminal according claim 1, wherein it includes identification data storage means for each provisioning set stored in the protected provisioning data storage means.

6. The terminal claimed in claim 1, wherein the protected provisioning data storage means are in a medium dedicated to an access network or to an operator.

7. The terminal claimed in claim 1, wherein the protected provisioning data storage means are in a medium dedicated to an access or content provider.

8. A telecommunication terminal for accessing a data network via an access network using a set of provisioning data, the terminal comprising:

means for storing a current set of provisioning data;

means for storing at least one set of protected provisioning data that cannot be updated without the intervention of an access network operator, and

means for selecting a set of provisioning data from a group of the current set of primary provisioning data and the set of protected primary provisioning data,

wherein a connection to the data network is established using the selected set of provisioning data.

9. The terminal claimed in claim 8, wherein the terminal is a mobile terminal.

10. The terminal claimed in claim 8, wherein said data network is a packet-switched data network.

11. The terminal claimed in claim 8, wherein the protected provisioning data storage means are adapted to store a plurality of sets of provisioning data for a plurality of accesses to the data network.

12. The terminal claimed in claim 8, wherein it includes identification data storage means for each provisioning set stored in the protected provisioning data storage means.

13. The terminal claimed in claim 8, wherein the protected provisioning data storage means are in a medium dedicated to an access network or to an operator.

14. The terminal claimed in claim 8, wherein the protected provisioning data storage means are in a medium dedicated to an access or content provider.

15. A telecommunication terminal for accessing a data network via an access network using a set of provisioning data, the terminal comprising:

means for storing a current set of provisioning data to access the data network;

means for storing at least one set of protected provisioning data that cannot be updated without the intervention of an access provider; and

means for selecting a set of provisioning data from a group of the current set of primary provisioning data and the set of protected primary provisioning data,

wherein a connection to the data network is established using the selected set of provisioning data.

16. The terminal claimed in claim 15, wherein the terminal is a mobile terminal.

17. The terminal claimed in claim 15, wherein said data network is a packet switched data network.

18. The terminal claimed in claim 15, wherein the protected provisioning data storage means are adapted to store a plurality of sets of provisioning data for a plurality of accesses to the data network.

19. The terminal claimed in claim 15, wherein it includes identification data storage means for each provisioning set stored in the protected provisioning data storage means.

20. The terminal claimed in claim 15, wherein the protected provisioning data storage means are in a medium dedicated to an access network or to an operator.

21. The terminal claimed in claim 15, wherein the protected provisioning data storage means are in a medium dedicated to an access or content provider.

22. A method of updating provisioning data in a telecommunications terminal for accessing a data network via an access network and an access provider, the method comprising:  
backing up provisioning data for an access network, an access provider or a user; and  
protecting the backed up provisioning data to prevent it being updated without the intervention of the user, an access network operator or the access provider.

23. A method of accessing a data network by a telecommunications terminal, the method comprising:  
identifying a user and a network using the terminal;  
when the user and the network are identified, checking a storage of the terminal for a protected provisioning data that cannot be modified without user intervention;  
when said provisioning data is detected, using said provisioning data to connect the terminal to the data network; and  
when said provisioning data is not detected, requesting current provisioning data;  
wherein said storage is in one of:  
the terminal;  
a medium dedicated to an access provider; and  
a medium dedicated to an access network,

wherein before storing in said storage said protected provisioning data, the user is queried whether said protected provisioning data is to be stored.

24. The method claimed in claim 23, wherein the provisioning data is primary provisioning data to access the data network.

25. The terminal claimed in claim 1, wherein both the means for storing a current set of provisioning data and the means for storing at least one set of protected provisioning data are located in at least one of storage of the terminal and on a card insertable into the terminal.

26. The terminal claimed in claim 1, wherein the means for storing a current set of provisioning data and the means for storing at least one set of protected provisioning data, each store data for setting up a connection to the data network via a respective access networks for the same terminal and wherein connections to different access networks are established with different stored sets of provisioning data.

27. A telecommunication terminal for accessing a data network via an access network using a set of provisioning data, the terminal comprising:

means for storing a current set of primary provisioning data;

means for storing at least one set of protected primary provisioning data that cannot be updated without intervention from a terminal user; and



means for copying one of said at least one set of protected primary provisioning data from the protected storing means into the current storing means.

28. The terminal claimed in claim 27, wherein, when the terminal returns to a home access network, said one of said at least one set of protected primary provisioning data is copied from the protected storing means into the current storing means.

29. The terminal claimed in claim 1, wherein the current set of primary provisioning data is updated automatically without intervention of the terminal user.

30. The method claimed in claim 23, wherein, when the current provisioning data is requested, a service provider supplies the terminal with the current provisioning data and the terminal establishes a connection with the data network using the current provisioning data.

31. The method claimed in claim 30, wherein, prior to said requesting of the current provisioning data, the terminal checks whether the protected provisioning data is for establishing the connection with the data network, and wherein the current provisioning data is automatically updated by the terminal without the user intervention.

APPEAL BRIEF UNDER 37 C.F.R. § 41.37  
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**EVIDENCE APPENDIX**

NONE.

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**RELATED PROCEEDINGS APPENDIX**

NONE.